

Carl R. Soller
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Attorneys for Defendant
JDB International Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHIPCO TRANSPORT, INC.,	:	
	:	09 cv 7532 (CM)
Plaintiff,	:	
	:	ECF CASE
-against-	:	
JDB INTERNATIONAL INC. and LAPTON	:	DECLARATION OF
FREIGHT INTERNATIONAL LIMITED,	:	CARL R. SOLLER IN
	:	SUPPORT OF CLL'S
	:	MOTION TO WITHDRAW
Defendants.	:	
	:	Hon. Colleen McMahon

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CARL R. SOLLER, pursuant to 28 U.S.C. §1746, declares as follows:

1. I am a member of the law firm of Cowan, Liebowitz & Latman, P.C. ("CLL"), counsel to defendant JDB International Inc. in the above-referenced matter. I submit this declaration pursuant to Local Civil Rule 1.4 of the U.S. District Court for the Southern District of New York and in support of CLL's motion to withdraw as counsel in this matter.
2. The current posture of the case is that discovery has been completed and there are no dispositive or other motions pending. Moreover, the date for dispositive motions has passed, and the date for the pretrial conference and trial have not yet been set. A copy of the current scheduling order, as well as the most recent order extending discovery, is attached hereto as Exhibit A.

3. Withdrawal is warranted because defendant and CLL have reached an irreconcilable conflict. Defendant's officers and employees do not return counsel's numerous phone calls or emails or otherwise respond to counsel's requests for information. Thus, counsel has been unable to obtain instructions and information from defendant in a timely and adequate fashion. Indeed, my most recent communication to defendant on March 29, 2011 has yet to be returned. This lack of communication has placed this law firm in an untenable position of being undermined in attempting to comply with discovery deadlines, to discuss strategy and to prepare for trial.

4. Defendant has also breached its obligations to this law firm by refusing to pay for our fees or disbursements for representation in this case. The outstanding fees and disbursements for this litigation now stand at approximately \$50,000, which has not been paid for several months. In fact, with the exception of two small payments in December 2010, defendant has not paid any of this firm's legal fees since September 2010, despite repeated billings and reminders.

5. I have informed defendant, orally and in writing, that I would be forced to withdraw if these fees were not paid. A printout of numerous emails from me and my colleague, Meichelle R MacGregor, Esq. to defendant regarding payment and discovery matters are attached as Exhibit B. The majority of these emails went unanswered. Moreover, to the extent they were answered, defendant did not directly address the issues raised therein with respect to the case or the fees owed. Moreover, as these emails show, defendant made repeated assurances of payment, vague and on occasion specific. In fact, last December, defendant's President advised me that she would be obtaining a loan to pay for our services. She even sent me a copy of the loan application. (See Ex. B., email dated Feb. 4, 2011). Notwithstanding these

assurances, to date, no payments have been made to CLL since the two small payments in December 2011. As such, the attorney client relationship has become increasingly strained, compromising our professional responsibility to provide a zealous defense to defendant.

6. There will be no foreseeable prejudice to defendant's rights as a consequence of CLL's withdrawal. Since no trial date has been set yet, defendant has ample opportunity to engage new counsel and the trial date can be set accordingly.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON APRIL 14, 2011 IN NEW YORK, NEW YORK.

/Carl R. Soller/
Carl R. Soller

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on April 14, 2011, a true copy of the foregoing Declaration of Carl R. Soller in Support of CLL's Motion To Withdraw was served via ECF on all counsel of record and via first class mail postage prepaid on defendant, JDB International Inc., at the following address: Karen Ambrosia, JDB International Inc., 780-A Apex Road, Sarasota, Florida 34240.

Dated: April 14, 2011
New York, New York

/Meichelle R. MacGregor/
Meichelle R. MacGregor